COMMENTS

This Amendment is submitted in response to the Office Action dated January 9, 2006, having a shortened statutory period set to expire April 9, 2006. In the present Amendment, Claims 1, 19, 28, 35 and 44 are amended, Claims 12-18 and 36 are cancelled, and Claims 53-54 are added. Claims 1-11, 19-35 and 37-54 are now pending.

Applicant's undersigned representative appreciates the time and courtesy extended by the Examiner during an April 4, 2006 teleconference. No agreement was reached during this teleconference. If the Examiner believes that another telephone call would be useful in promoting the present application to allowance, such a call to the Applicant's undersigned representative at 512.617.5533 would be greatly appreciated.

Rejections under 35 U.S.C. § 112 and 35 U.S.C. § 101

In paragraph 8 of the present Office Action, the Examiner has rejected Claims 12-18 under 35 U.S.C. § 112, second paragraph. Similarly, Claims 12-18 are rejected in paragraph 11 under 35 U.S.C. § 101. These claims are now cancelled, and thus the rejections are moot and should be withdrawn.

Rejections Under 35 U.S.C. §§ 102 and 103

In paragraph 13 of the present office action, the Examiner has rejected Claims 12-14, 17-19, 28-29 and 32-34 under 35 U.S.C. § 102(b) as being anticipated by *Kathail* (U.S. Patent No. 5,802,365 – "*Kathail*"). In paragraph 15 of the present office action, the Examiner has rejected Claims 1-11, 20-27 and 35-53 under 35 U.S.C. § 103(a) as being unpatentable over *Furtney et al.* (U.S. Patent No. 5,579,509 – "*Furtney*") in view of *Kathail*. In light of the proposed amendments, Applicants respectfully traverse these rejections, and request that they be withdrawn and all claims allowed.

Kathail describes a method for automatically correlating a device to its appropriate driver. If the device does not already have a driver, then a candidate list of drivers is provided. Each driver from the list is sequentially tried until a driver is found that does not cause an error.

(*Kathail* abstract.) A device in a device tree is automatically matched up with its appropriate driver according to the device's name (*Kathail*, col.7, lines 57-59). If the new device does not have a name, then a pseudo-name is made up for it (*Kathail*, col. 8, lines 19-22). A driver description for the driver then helps a device manager pick the best driver among multiple candidates (*Kathail*, col. 8, lines 64-66). Thus, replacing a driver is a simple two-step process of 1) the driver to be replaced giving up control of the device and 2) installing the new driver (*Kathail*, col. 17, lines 57-62). If two drivers are available, then the most recent version is chosen (*Kathail*, col. 36, lines 12-13). Thus, the device asks 1) is there a driver available and 2) where is the most current version of the driver (*Kathail*, col. 42, lines 45-47)?

Furtney teaches comparing version numbers of multiple units of software to determine if the multiple units of software are compatible with one another (*Furtney*, abstract).

With reference to exemplary Claim 1, the cited art does not teach or suggest "in response to determining that said firmware family codes are different, considering said two firmware images to be incompatible unless a compatibility table entry indicates otherwise," as supported by paragraph [0018] of the present specification in U.S. Patent Application Publication No. 2004/0205745 A1. Neither *Furtney* nor *Kathail* addresses the issue or whether two firmware images are compatible based on firmware family codes. *Furtney* teaches confirming software compatibility by examining version numbers (*Furtney*, col. 3, lines 30-50). *Kathail* teaches matching up drivers to hardware devices according to, among other factors, the "service category of the family with which they [the drivers] belong" (*Kathail*, col. 2, lines 54-55). There is no teaching or suggestion in the cited art of an overriding "compatibility table entry" that indicates that two firmware images are compatible, despite being from different families.

With reference to amended Claim 35, the cited art does not teach or suggest "in response to determining that said installed firmware does not have a firmware family control block that includes a firmware family code, firmware stepping level and compatibility table for said installed firmware, causing a flash utility to refuse to install said candidate firmware," as supported in the present specification at paragraph [0037]. Specifically, there is no teaching or

suggestion in the cited art for making installation of new firmware dependent upon the old firmware having a firmware family control block.

With reference to new Claim 53, the cited art does not teach or suggest the additional step in Claim 35, wherein "in response to determining that said candidate firmware is desired to replace said installed firmware that does not have said firmware family control block, issuing an override command from said flash utility to override said refuse to install command, wherein said candidate firmware flashes over said installed firmware despite said installed firmware lacking said firmware family control block," as supported in the present specification at paragraphs [0037] and [0040]. That is, even if the flash utility has refused to install the new firmware, an override command can be issued forcing the flash utility to install the new firmware anyway.

With reference to new Claim 54, the cited art does not teach or suggest "wherein said method for identifying compatibility between two firmware images is performed in response to an electronic device having undergone a design upgrade that incorporates new components," as supported in the present specification at paragraph [0036]. That is, firmware image compatibility checking is performed whenever a system upgrade of hardware is performed.

As the cited prior art does not teach or suggest all of the claims features in the presently presented claims, Applicants respectfully request that all pending claims be allowed.

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CONCLUSION

Applicants now respectfully request a Notice of Allowance for all pending claims.

No extension of time for this response is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to **IBM CORPORATION DEPOSIT ACCOUNT No. 50-0563**.

Respectfully submitted,

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